

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:06cr215-MEF
)	
ALBERTO VILLAREAL)	

**GOVERNMENT’S AMENDED MOTION FOR DOWNWARD DEPARTURE
AND CERTIFICATION OF SUBSTANTIAL ASSISTANCE**

COMES NOW the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and files this amended motion for downward departure, and as reasons therefore, submits the following:

1. In November 2006, Defendant Alberto Villareal was found and arrested in Canada for traveling outside the district without permission, in violation of the terms of his bond. Villareal has consistently explained that this violation was not an attempt to flee justice, but rather a misguided attempt to be with his wife – a Canadian resident – at or near the time she was giving birth to the couple’s first child. The Government has no evidence to the contrary and finds Villareal’s explanation to be credible. Nevertheless, because of his trip to Canada, Villareal’s pretrial bond was revoked, and he has been forced to spend the remainder of his pretrial term incarcerated at the Autauga Metro Jail.

2. Another consequence of Villareal’s trip to Canada was that the United States Probation Office withdrew its recommendation that he receive a two-level reduction in his offense level for acceptance of responsibility under U.S.S.G. § 3E1.1.

3. On or about June 21, 2007, Villareal entered a plea of guilty to an indictment charging a violation of Title 21, United States Code, Section 846. The plea was entered pursuant to a written plea agreement submitted under Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. In the agreement, the Government offered Villareal the opportunity to cooperate with law enforcement, in exchange for a possible reduction in his sentence under U.S.S.G. §§ 3E1.1, 5C1.2, and 5K1.1, and 18 U.S.C. § 3553(e).

4. Villareal accepted the Government’s offer and has already provided detailed information to federal and state law enforcement officers regarding his

participation in an illegal drug distribution conspiracy that took place in the Middle District of Alabama and the Western District of Texas.

5. In addition to the information he provided, Villareal cooperated with the Government in prosecuting two of his co-defendants, first by agreeing to wear a transmitter and attempt a controlled delivery to them shortly after his arrest, and second by testifying at length against them during their trial more than a year-and-a-half later. To facilitate his effective participation at trial, Villareal willingly agreed to be interviewed several times by government prosecutors and agents and to forego any objections he might have to repeated continuances of both the trial and his sentencing hearing, all while he remained incarcerated and his co-defendants were out on bond.

6. The Government considers the assistance provided by Villareal to be substantial, and in furtherance of the objective of the parties' plea agreement now moves this Court to reduce his applicable offense level by **six (6) levels** under U.S.S.G. § 5K1.1.

7. Pursuant to the provisions of U.S.S.G. § 5C1.2, the Government further moves this Court to impose a sentence at the bottom end of the applicable guidelines range, without regard to any minimum sentence mandated by statute. Villareal does not have more than 1 criminal history point; he did not use violence, credible threats of violence, or a firearm or other dangerous weapon in connection with his offense; the offense did not result in death or serious bodily injury to any person; he was not an organizer, leader, manager, or supervisor of others in the offense; and the Government believes that he has truthfully provided all of the information and evidence he has concerning the course of conduct that gave rise to his offense.

Respectfully submitted this the 14th day of May, 2008.

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/ Nathan D. Stump
NATHAN D. STUMP
Assistant United States Attorney
131 Clayton Street
Montgomery, AL 36104-3429
Tel: (334) 223-7280
Fax: (334) 223-7560
Email: nathan.stump@usdoj.gov

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:06cr215-MEF
)	
ALBERTO VILLAREAL)	

CERTIFICATE OF SERVICE

I, Nathan D. Stump, Assistant United States Attorney, hereby certify that on this the 14th day of May, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically serve a copy upon all counsel of record, including Christine A. Freeman, Esq., counsel for Defendant.

Respectfully submitted,

/s/Nathan D. Stump
NATHAN D. STUMP
131 Clayton Street
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7135
E-mail: nathan.stump@usdoj.gov